

## REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application.

Claim 1 has been amended for overcoming the clarity objections indicated in the last official action and for better specifying the expression "walls arranged as a semi-circle"; support for this amendment is in previous claim 1; in fact the presence of an aperture suitable for a lateral extraction of the bottle is immediately derivable from the original expression "walls arranged as a semicircle", In fact a semicircle implies implicitly the presence of an open arc (which defines an aperture).

Claims 6-11 and 13 have been deleted. Claim 12 has been amended and support is found in previous claims 12 and 13; also claim 12 has been amended for overcoming the same clarity objections raised for claim 1. Also claim 12 has been amended for specifying that the semicircle bracket defines a lateral aperture suitable for a lateral extraction of the bottle. This is implicitly derivable by original claim 12 and the drawings in which it is disclosed the presence of a semicircle bracket suitable for partly enveloping a bottle. Claim 17 corresponds to claim 12 with the omission of the adjective "vertical" referred to the pins and with the specification that the pins are at least two. Claim 18 corresponds to claim 14. Claims 19 and 20 correspond to claims 15 and 16.

## **NOVELTY**

As regards present claim 1 Eder (US4594123) does not disclose at least the following technical features:

1) *A drum able to be vertically translated in order to take the bottle inside the formed tubular label* (the Applicant does not understand in which way column 3 lines 18-63 of Eder can anticipate this aspect; in fact in the passage of the description cited by the Examiner it is indicated that the bell 10 can be moved vertically, but not the drum; regarding this aspect the Examiner in the last three Official Actions has repeated the same words but the Applicant would like to understand where, according to the Examiner, the Applicant's considerations fail; reading Eder and analysing the movement of the elements indicated with the reference numbers 21-24 it is clear that the drum cannot move vertically but can move only in a horizontal plane so Eder does not disclose a "drum being able to vertically translate");

2) *Stopper members of a lower label edge placed at a pre-established height from the bottle bottom when the bottle is housed on the tubular label winding drum* (contrarily to the Examiner's opinion the lugs 27 of Eder are not stopper members of lower label edge; in fact the lugs 27 connect two portions 9, 21 of the drum and do not come in contact with the label; also the lugs 27 in Eder are used in the embodiment of figure 4, i.e. the embodiment used for normal length label and certainly the normal length label shown in figure 4 cannot be considered a tubular label; so if the Examiner continues to identify the stopper members with the lugs of Eder certainly Eder does not disclose a tubular label winding drum -please note that the lugs 27 are not disclosed in the embodiment of figure 3 in which it is disclosed a label that surrounds the bottle-);

3) *Stopper members of the lower label edge comprising a plurality of small vertical walls arranged as a semi-circle on a collar adapted to be secured to the upper base of the winding drum, the small vertical walls elastically adhering on the top to the external surface of the bottle to create a stop on which the lower label edge abut* (as indicated in the last Official action the Examiner recognizes that this feature is not disclosed by Eder).

In view of the above, present claim 1 is new with respect to US Patent US4594123.

As regards claim 1, Fuji does not disclose at least stopper members comprising a plurality of small vertical walls arranged as a semi-circle (in fact from the drawing it is evident that the small vertical walls are arranged as a circle and not as a semicircle; this difference is very important and will be discussed in the paragraph regarding "non obviousness of claim 1").

As regards present claim 17 Eder (US4594123) does not disclose at least the following technical features (claim 12 is more specific than claim 17, so it will not be discussed in detail):

1) A drum able to be vertically translated in order to take the bottle inside the formed tubular label (the Applicant does not understand in which way column 3 lines 18-63 can anticipate this aspect; in fact on the passage of the description cited by the Examiner it is indicated that the bell 10 can be moved vertically, but not the drum; the Examiner in the last three Official Action has repeated the same words but the Applicant would like to understand where, according to the Examiner, the Applicant's considerations fail);

2) Stopper members of a lower label edge placed in a semi-circle at a pre-established height from the bottle bottom when the bottle is housed on the tubular label winding drum (the Examiner identifies the semicircular bracket of the claim with the elements indicated with the

reference number 34 in Eder. The Applicant does not understand in which part of Eder it is indicated that element indicated with the reference number 34 is semicircular; from figure 3 of Eder the Applicant understands that it is circular);

3) Stopper members providing for at least two pins of a predetermined height that can be fixed to the upper base of the winding drum or to a bracket equipped with at least two movements along Cartesian axes, the pins supporting a bracket on which limit switches being radially secured and getting in contact with the bottle to determine a bearing plane of the lower edge of the tubular label (the Examiner identifies the pin and the limit switches with the elements indicated respectively with the reference number 27 and 34 in Eder. However the element 27 is disclosed with reference to the embodiment of figure 4, while the element 34 is disclosed with reference to the embodiment of figure 3; please note that the embodiments of figures 3 and 4 are alternative. The pin 27 cannot be used in combination with the gear 33 in the embodiment of figure 3, otherwise the device cannot work).

### **NON OBVIOUSNESS OF CLAIM 1**

In view of the above Eder cannot be considered the closest prior art because it does not disclose many features of the claim. In order to cooperate with the Examiner for defining a shared formulation of claim 1 the Applicant indicates that Fuji is much more pertinent than Eder.

Claim 1 differs from Fuji at least in the fact that the stopper members comprise a plurality of small vertical wall arranged as a semi-circle with an aperture developing at least partially upwardly and suitable for a lateral extraction of the bottle.

This characterising feature permits to solve the objective technical problem of simplifying the structure of the winding drum and improving the production rate. In fact the stopper members shaped as a semicircle permit the extraction of the bottle from the open lateral side i.e. the side which is open in view of the fact that is used a semicircle and not a circle. In this way there is not the necessity to extract the bottle from an upper aperture as disclosed in the figures of Fuji and the bottle may be removed from the stopper members using known star wheels (which are fundamental if you want to increase the speed of the machine).

In this way the stopper members may be connected to the winding drum (as explicitly claimed in claim 1), and there is not the necessity to use an additional element for rising the bottle. In fact in Fuji if the stopper members are connected to an underlying winding drum (using the elements

indicated with the reference number 4), the winding drum cannot pass through the stopper members (the stopper members and the winding drum act as a single body) and so an additional element must be used for extracting the bottle.

However if the Examiner wants to consider as closest prior art the device disclosed in figure 4 of Eder he must change completely this embodiment (in view of Fuji). In fact he has to change the structure identified with the reference numbers 20-29 otherwise he cannot obtain a vertical translation and he cannot insert the bottle into the tubular label disclosed by Fuji. Then he has to change the structure identified with the reference number 38 because otherwise he cannot place a tubular label. The structure 38 is used for applying adhesive labels and not tubular labels. However also in this case he has no indication of using a stopper members with all the features indicated in present claim 1 (in particular a semicircular stopper members which permit the extraction of the tubular label from a lateral surface). Consequently also combining Eder and Fuji he cannot obtain something within the words of claim 1 and the distinguishing feature permits to solve an important technical problem i.e. increasing the production rate and simplifying the machine (avoiding an ex-post facto analysis the skilled man cannot modify in an obvious way the embodiment obtained combining Eder and Fuji for having something within the words of claim 1).

#### **NON OBVIOUSNESS OF CLAIMS 12 AND 17**

In this paragraph it will be discussed the non obviousness of claim 17, but the same considerations may be repeated for claim 12 (which is more specific than claim 17).

In the Official Action for objecting the obviousness of claim 12 the Examiner combined the embodiment of figure 3 of Eder (in which are disclosed the lugs 27), the embodiment of figure 4 of Eder (in which is disclosed the gear 34), Fuji. However the Applicant respectfully puts in evidence that the lugs 27 in Eder are used to avoid rotation of portions 9 and 21 of the drum. In Eder the gear 33 is used to permit an extra-rotation of the drum, disengaging the rotation determined by the inferior cam and the rotation determined by the gear 33. So if the skilled man wants to use the gear 33 he has to change the lugs 27 with the bearings 34 (as in figure 4 of Eder) obtaining something without the lugs 27 i.e. the elements that in Examiner's Opinion corresponds to the pins of claim 12 or 17. In view of the above in the last Official Action the Examiner combined two embodiments (figure 3 and figure 4) which are alternative. In Applicant's opinion the skilled man cannot combine the embodiments of figures 3 and 4

because he would obtain something which does not work (as previously argued). It is also not clear in which way the skilled man has to use Fuji's teachings: must he place Fuji's stopper members over the gear of Eder? Must he change the gear disclosed in Eder with a new flexible gear?

In any case the Applicant wants to underline that stopper members of the kind disclosed in the independent claims are not disclosed in the prior art; in particular the prior art does not disclose a semicircle stopper member with a lateral aperture for the extraction of the bottle. As indicated in the previous paragraph this permits to solve the objective technical problem of improving the production rate without increasing the complexity of the device. In fact the semicircular stopper member permits a lateral extraction of the bottle using an additional element which extracts the bottle from the upper portion of the stopper member. No embodiments within the words of amended independent claims can be realised combining Eder and Fuji and bearing in mind that the skilled man does not know the claimed solution (i.e. he cannot make an ex post facto analysis).

Consequently, the independent claims 1, 12 and 17 are clearly patentable over the prior art.

The dependent claims, depending now directly or indirectly on patentable independent claims, are clearly patentable too. In view of the above amendments and remarks, reconsideration of the application is respectfully requested. Since all of the claims are now in condition for allowance, a Notice of Allowance is respectfully requested. If any further fees are required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. BUG7-46160.

Respectfully submitted,  
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